IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19851 of 2002

Between:

1 Y.Ramana, S/o. Yerriah,
R/o. Vadarevu, Chirala Mandal, Prakasam Dist.

2 Samudra Theera Matsya Karmikula Union,

(Regd. No. C-2017), 2nd Floor, Ratnam Diamond Towers, Kurnool Road,

Ongole – 523002,

Rep. by its Office Secretary, D.V.V. Suresh, s/o. D. Brahmanandam,
H.No. 45-1-135/2, K.P. Road, Ongole.

3 Gamana, a Registered Voluntary Organisation(Regd.No.2570/97)

rep. by its Executive Dierctor,Mr. Anil C. Dayakar,

S/o. Aseerwadam, agedabout 34 years,

R/o. Plot No. 330, Vivekananda Nagar,

Borabonda, Hyderabad.

..... PETITIONERS

AND

1 Principal Secretary Ministry of Environmental & Forests, Science and

Technology, Govt.of AP, Secretariat Buildings, Saifabad, Hyderabad.

2 Member Secretary,
Andhra Pradesh Pollution Control Board, 2nd Floor, Maitrivanam
HUDA Complex , S.R. Nagar, Hyderabad.
3 Director,
Andhra Pradesh Seashore Area Development Authority (APSADA),
Secretariat Buildings, Saifabad , Hyderabad.
4 District Collector ,
Pakasam Dist, Ongole.
5 Managing Director
M/S Andhra Sea Ports Ltd., Vodarevu, Chirala Mandal,
Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction more in the nature of Writ of Mandamus declaring inaction of the part of the respondents R1 to R4 in stopping activity taken up by R5 at Vodarevu, Chirala Mandal, Prakasam District is illegal violative of Environment (Protection) Act, 1986 and unconstitutional and consequently set aside the proceedings dated. 23/10/2001 after declaring that no ship breaking unit can come up in CRZ in general and especially at Vodarevu, Chirala Mandal , Prakasam District while declaring that the CFE could not have been issued by R2 at this preliminary stage without clearance from R3 and direct R1 to R4 to prosecute R5 for taking up the construction and development activity relating to ship breaking unit in violation of the order passed by R2 to R3 since 1999.

WRIT PETITION NO : 21153 of 2002

Between:

The Fishermen of Vodarevu, Chirala, Prakasham District

..... PETITIONER

AND

1 Member Secretary, A.P.Pollution Control Board,
Hyderabad
2 District Collector, Prakasam District at Ongole
3 R.D.O. Chirala, Prakasham District
4 M.R.O. Vodarevu, Chirala,
Prakasam District
5 Superintendent of Police, Prakasam District at Ongole
6 Director, A.P.S.A.D.A., E.F.S. & T.Dept., Hyderabad
7 M/s Andhra Sea Ports Limited
451-A/444, Vodarevu Minar Port, Chirala, Prakasam District

(Impleaded as per the Court order dated 25.10.2002 in W.P. No. 21153 of

2002)

8. Cap. Rama Rao, S/o. Venkata Rao, 74 years, R/o. 540, Road No.12,

Banjara Hills, Hyderabad.

(impleaded as per Court order dated 28.11.2002 in WPMP No. 29494 of 2002)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ, more particularly one in the nature of writ of mandamus calling for the remarks and records from the respondents herein and connected to about Ten Thousand Fishermen of Vodarevu, Chirala, Prakasam District who are eking livelihood for the past 50 years by fishing from the sea and who has been threatened their, livelihood by some contractors by constructing a ship breaking yard near their village. The effluents like chemicals, oils, etc., which may originate from the proposed ship breaking yard shall contaminate the seas, which eventually cause destruction of Fish fauna due to which they will be put to irreperable loss. The pollutants released into sea and atmosphere cause skin diseases, lung diseases and cancer to the people in the area. The petitioners therefore requests to kindly direct the concerned authorities to immediately stop the illegal construction of the ship breaking yard in their village in the public interest. It is further submitted that order No.140/PCB/C.Estt/RO-NLR/AEE-N/2001, Dt.23/10/2001, (enclosed) discloses that the Member Secrtary, A.P.Pollution, Control Board, gave consent to one M/s Andhra Sea Ports Ltd., for establishment of ship breaking yard at Vodarevu subject to fulfillment of certain conditions. As per the letter No.9016/SAOA/2010, Dt.21/09/2002 of the Director APSADA EFS & T.Dept., Hyderabad addressed to one Capt. J.Rama Rao, Chairman for better, Hyderabad, the Technical Committee constituted for evaluation of the projects and after activities in the coastal regulation zone, has rejected the proposal of the ship breaking units Vodarevu, if is therefore prayed that to pass appropriate orders directing the respondents herein to call for the records and direct the concerned to set aside the proposal of the ship breaking units at Vodarevu and to pass such other order.

These petitions coming on for hearing, upon perusing the petition dated 5.1.2002 sent by the petitioner, which is taken up as W.P. No. 21153/2002 and upon hearing the arguments of Mr. K.S.Murthy, Advocate for the petitioners in W.P. No. 19851 of 2002 and Respondent No.8 in W.P. No.21153/2002 and Government Pleader for Irrigation for State authorities and Mr.S.V. Bhatt, Standing Counsel for Pollution Control Board and Mr. O.Manohar Reddy, Advocate for respondent No.5 in W.P. No.19851 of 2002 and Respondent No.7 in W.P. No. 21153 of 2002, the Court made the following:

Oral Order: (Per Sri Devinder Gupta, CJ)

The first writ petition, namely, Writ Petition No. 19851 of 2002 has been filed by three petitioners as Public Interest Litigation questioning the inaction on the part of the respondents 1 to 4 in stopping the activity alleged to have been taken up by the 5th respondent at Vodarevu, Chirala Mandal, Prakasam District to be illegal and violative of the relevant Environmental Laws. They are seeking a declaration that no ship breaking unit can come up in Coastal Regulation Zone (CRZ) and especially at Vodarevu, Chirala Mandal, Prakasam District. They have also raised a question that Consent for Establishment (CFE) could not have been issued by the A.P. Pollution Control Board, Hyderabad, the 2nd respondent herein at the preliminary stage without obtaining clearance from the A.P. Seashore Area Development Authority (APSADA) and consequently prayed for issuing of directions against respondents 1 to 4 to prosecute the 5th respondent for the alleged unlawful activities.

The second writ petition, namely, Writ Petition No. 21153 of 2002 is a taken up writ

petition on the basis of a letter received from the Forum for a Better Hyderabad, almost by making similar grievances. M/s. Andhra Sea Ports Limited., Vodarevu, Chirala Mandal, Prakasam District is the 7th respondent in the second writ petition and we have taken up both these petitions together.

The 5th respondent in the first writ petition and the 7th respondent in the second writ petition in its counter affidavit filed in Writ Petition No. 21153 of 2002 has stated that Government of A.P. declared Vodarevu as a minor port and decided to set up a ship breaking industry at Vodarevu, Chirala Mandal Prakasam District. Thereafter bids were invited from various persons for awarding the development of the said port including ship breaking facilities. Pursuant to the tender, 7th respondent was short-listed and ultimately, the 7th respondent and Government of A.P. entered into an agreement for development of Vodarevu on 19.3.1999. It is stated that thereafter only the 7th respondent laid kutcha road in the area allotted to it. It is further stated that the 7th respondent made an application to the A.P. Pollution Control Board and its site was inspected and Consent for Establishment was given for establishing ship breaking unit on some conditions. One of the condition was that under the CRZ notification, the industry must obtain clearance from the Shore Area Development Authority and thus the respondent No.7 stated that it was pursuing the matter with the concerned authority for grant of permission. It was further pointed out that the 7th respondent will not undertake any developmental activity without obtaining necessary permission from the concerned authorities.

Though it will not be necessary, for our purposes, at this stage, to take note of the subsequent developments, but we will make a mention to the affidavit of Mr.B.V. Prasada Reddy, Director, Andhra Pradesh Shore Area Development Authority, that experts on environment and marine ecology, after deliberations by the Consultant of the Project on 26.6.2002 felt that the proposal could not be recommended.

In view of the stand taken by the 7th respondent in the affidavit in reply that it will not undertake any developmental activity without obtaining necessary permission from the concerned authorities, we will not go into the other questions raised in the writ petition as to the competence of the 2nd respondent in having issued Consent for Establishment without following due procedure in Law.

Accordingly, we dispose of these writ petitions with liberty reserved to the

parties, in case, they would feel aggrieved by any of the acts or omissions on the part of the authorities concerned, to challenge the same in appropriate proceedings.

DEVINDER GUPTA,CJ

Date: 7th July, 2004

G.ROHINI,J

Pnb

To

1 The Principal Secretary, Ministry of Environmental & Forests, Science and Technology, Govt.of AP,

Secretariat Buildings, Saifabad, Hyderabad.

2 The Member Secretary,
Andhra Pradesh Pollution Control Board, 2nd Floor, Maitrivanam
HUDA Complex , S.R. Nagar, Hyderabad.
3 Director,
Andhra Pradesh, Seashore Area Development Authority (APSADA)
Secretariat Buildings, Saifabad , Hyderabad
4 District Collector
Pakasam Dist, Ongole
5. The Revenue Divisional Officer, Chirala, Prakasham District
6 The Mandal Revenue Officer, Vodarevu, Chirala, Prakasam District.
7 The Superintendent of Police, Prakasam District at Ongole.
8. The Government Pleader for Irrigation, High Court Buildings, Hyderabad (OUT)

9. The Section Officer, PIL, High Court Buildings, Hyderabad.

10. The A.P. State Legal Aid Advisory Board, High Court Buildings, Hyderabad.

11. Two C.D. copies